

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Brown, Stephen

Serial No.: 10/605,548

Patent No:

Title: NETWORK HEALTHINFORMATION SYSTEM FOR MONITORING FOOD INTAKE

Filed: October 07, 2003

Attorney Docket No.: 03-1010

Art Unit: 3626

Re: Information regarding litigation

MPEP §2001.06(c) requires that "Where the subject matter for which a patent is being sought is or has been involved in litigation, the existence of such litigation and any other material information arising therefrom must be brought to the attention of the U.S. Patent and Trademark Office."

Applicant Health Hero Network is in litigation with Alere Medical Inc. with respect to several patents including US Patent No. 7,223,236 ("the '236 Patent") in the United States District Court for the Northern District of Illinois, Eastern Division (Civil Action No. 07CV5031).

The application currently under examination before the Examiner claims priority from subject matter disclosed in the '236 Patent.

Pursuant to discovery in the litigation and requests for re-examination, Alere has identified certain patents and publications that Alere believes to be "material to the patentability of the claims" in the '236 Patent.

The patents and publications identified specifically for the '236 Patent are listed in IDS No. 1.

In addition to the foregoing, Alere has also identified several other patents and publications. Applicant hereby provides the Examiner with this additional list out of an abundance of caution. These additional patents and publications are listed in IDS No. 2 and IDS No. 3.

IDS No. 2 lists patents and publications with a filing or publication

date in or prior to 1993. Applicant has elected to separate this listing because the subject matter of the current application was invented no later than Nov. 17, 1992.

IDS No. 3 lists patents and publications with a filing or publication date in or after 1994.

Applicant has taken reasonable efforts to ensure that these listings do not contain art that has already been disclosed to the Office during the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sandeep Jaggi', with a stylized flourish at the end.

Sandeep Jaggi  
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Dated: June 16, 2009  
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